



IN THE MATTER OF:

CASE No. 2017-1058

Huber Heights Fire Department
c/o Christopher McIntosh, D.O.
7008 Brandt Pike
Huber Heights, Ohio 45424

License No. 02-0322553

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Huber Heights Fire Department, for the purpose of resolving all issues between the parties relating to the Board investigation of Huber Heights Fire Department operating without a terminal distributor of dangerous drugs license for approximately 59 days. Together, the Board and Huber Heights Fire Department are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Huber Heights Fire Department is a licensed Terminal Distributor of Dangerous Drugs under license number 02-0322553.

FACTS

1. On or about January 17, 2017, the Board initiated an investigation of Huber Heights Fire Department, Terminal Distributor of Dangerous Drugs license number 02-0322553, related to Huber Heights Fire Department operating without a terminal distributor of dangerous drugs license for approximately 59 days.
2. On or about April 24, 2017, the Board sent a Notice of Opportunity for Hearing to Huber Heights Fire Department, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

WHEREFORE, the parties desire to resolve the issues relating to the above-referenced findings without resorting to further administrative or judicial proceedings.

TERMS

77 South High Street, 17th Floor, Columbus, Ohio 43215



NOW THEREFORE, in consideration of the mutual promises herein expressed, the parties knowingly and voluntarily agree as follows:


1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Huber Heights Fire Department neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 24, 2017; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. The Board hereby issues a public reprimand to Huber Heights Fire Department.
4. Huber Heights Fire Department agrees to pay to the Board a monetary penalty the amount of \$500.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the Board, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126. **The Board suspends indefinitely payment of the monetary penalty, conditioned up timely and accurate renewal applications being submitted by Huber Heights Fire Department.**
5. Huber Heights Fire Department agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
6. Huber Heights Fire Department agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Huber Heights Fire Department of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to Huber Heights Fire Department by the Board and will NOT discharge Huber Heights Fire Department from any obligation under the terms of this Agreement.
7. Huber Heights Fire Department agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. Huber Heights Fire Department understands that it has the right to be represented by counsel for review and execution of this agreement.
9. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Huber Heights Fire Department will operate.

10. Huber Heights Fire Department waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to appeal.
11. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
12. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
13. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
14. This Agreement shall become effective upon the date of the Board President's signature below.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties to this Agreement have executed it and/or cause it to be executed by their duly authorized representatives.

Approved by:



Christopher McIntosh, DO, *on behalf of*,
Huber Heights Fire Department, Respondent

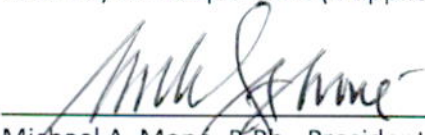
3 MAY 2017

Date of Signature

N/A

Attorney for Respondent (if applicable)

Date of Signature



Michael A. Mone, R.Ph., President,
State of Ohio Board of Pharmacy

6/6/2017

Date of Signature



Steven Kochheiser, Ohio Assistant Attorney General

6/7/2017

Date of Signature



**STATE OF
OHIO**
BOARD OF PHARMACY

**NOTICE OF OPPORTUNITY FOR HEARING
PROPOSAL TO TAKE DISCIPLINARY ACTION AGAINST LICENSEE**

IN THE MATTER OF:

Huber Heights Fire Department
c/o Christopher McIntosh, D.O.
7008 Brandt Pike
Huber Heights, OH 45424

April 24, 2017

CASE NO. 2017-1058

License No. 02-0322553

-THIS IS A RED INK STAMP-

I certify this to be a true and exact copy of
the original document on file with the
Ohio State Board of Pharmacy

Steven W. Schierholt
Steven W. Schierholt, Esq., Executive Dir.
Date 4/24/17

-MUST HAVE BOARD SEAL TO BE OFFICIAL-

Dear Huber Heights Fire Department and Christopher McIntosh:

You are hereby notified, in accordance with the provisions of Section 119.07 of the Ohio Revised Code the State of Ohio Board of Pharmacy (Board) proposes to take action against your license as a Terminal Distributor of Dangerous Drugs under authority of Section (TDDD) 4729.57 of the Revised Code.

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.55 of the Ohio Revised Code to practice as a TDDD in the state of Ohio. Additionally, Section 4729.57 of the Revised Code grants the Board the authority to impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense or \$1,000 if the acts committed have not been classified as an offense by the Revised Code.
1. On or about December 23, 2016, Christopher McIntosh signed as the Responsible Person on an application for a TDDD License on behalf of Huber Heights Fire Department.

ALLEGATIONS

1. Records of the Board indicate that you operated without a terminal distributor of dangerous drugs license for approximately 59 days.
2. During an interview with an Agent of the Board, Department Chief, Mark Ashworth, confirmed the facility operated without a terminal distributor of dangerous drugs license.

POTENTIAL VIOLATIONS OF LAW

1. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of Section 4729.51(C)(3) of the ORC as effective until April 6, 2017, selling purchasing, distributing, or delivering dangerous drugs, a misdemeanor of the first degree, each punishable by a maximum fine of \$1,000.
2. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of each of the following divisions of Sections 4729.57 of the ORC, each violation being a minor misdemeanor, each punishable by a

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maximum penalty of \$1,000 if committed by an organization:

- a. Violating any rule of the board, ORC 4729.57(A)(2); and/or
 - b. Violating any provision of this chapter, ORC 4729.57(A)(3).
3. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of the following Sections of Rule 4729-9-19 of the OAC, each violation punishable by a maximum fine of \$1,000:
- a. Commission of an act that constitutes a felony, regardless of the jurisdiction in which the act was committed, OAC Rule 4729-9-19(A)(2); and/or
 - b. Not of good moral character and habits, OAC Rule 4729-9-19(A)(4).

YOU ARE FURTHER NOTIFIED, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, that you are entitled to a hearing before the State of Ohio Board of Pharmacy, if you request such a hearing within thirty 30 days of the date of the mailing of this notice.

IF YOU DESIRE A HEARING, such request shall either be mailed to the State of Ohio Board of Pharmacy, Attn: Legal, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126 or an e-mail request may be sent to legal@pharmacy.ohio.gov (please note faxes will not be accepted). **YOUR REQUEST MUST BE RECEIVED ON OR PRIOR TO THE 30th DAY FOLLOWING THE MAILING DATE OF THIS NOTICE.** Please note that if you submit a request via email, your request will be acknowledged within one business day of receipt. If you do not receive an acknowledgment, please contact the Board offices at 614-466-4143 and request the legal department. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you. If you are a corporation, you must be represented at the hearing by an attorney licensed to practice in the state of Ohio.

YOU ARE FURTHER ADVISED that if there is no request for such a hearing received by the Board on or prior to the 30th day following the mailing of this notice, the Ohio State Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

If you have questions regarding the Chapter 119. Administrative Hearing process, please e-mail your questions to legal@pharmacy.ohio.gov or call the Board office at 614-466-4143 and ask for the legal department.

BY ORDER OF THE STATE BOARD OF PHARMACY


Steven W. Schlerholt, Esq., Executive Director

SWS/rlc

CMRRR: 7005 0390 0001 8572 4054